

## Message Text

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PASS EB FOR BOEKER, L FOR FELDMAN, TREASURY FOR LANGE,  
COMMERCE FOR ARRILL, CIEP FOR GRANFIELD, JUSTICE FOR  
DAVIDOW

USUN PASS AMBASSADOR MYERSON FOR AMBASSADOR TURNER

E.O. 11652: N/A

TAGS: EINV, EFIN, OECD

SUBJECT: OECD COMMITTEE ON INTERNATIONAL INVESTMENT AND  
MULTINATIONAL ENTERPRISES (CIME), DECEMBER 18-19 MEETING

REF: (A) OECD PARIS 30695, (B) OECD PARIS 33325

(C) IME(75)19 (1ST REVISION), (D) IME(75)22,

(E) IME(75)23, (F) IME(75)24, (G) IND(75)2,

(H) RBP(75)7

1. SUMMARY AND CONCLUSIONS: CIME MADE MAJOR PROGRESS  
TOWARD RESOLVING REMAINING ISSUES ON GUIDELINES FOR  
MULTINATIONAL ENTERPRISES AND RELATED TWO INTERGOVERN-  
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MENTAL UNDERTAKINGS ON NATIONAL TREATMENT AND INVESTMENT

INCENTIVES AND DISINCENTIVES. COMMITTEE AGREED TO SET A PACE FOR FURTHER NEGOTIATIONS THAT WILL PERMIT THE THREE DOCUMENTS TO BE FORWARDED TO OECD COUNCIL BEFORE UN COMMISSION ON TRANSNATIONAL CORPORATIONS MEETS IN LIMA IN MARCH (ALTHOUGH PROMULGATION OF OECD INVESTMENT PACKAGE WOULD BE HELD FOR OECD SPRING MINISTERIAL). THIS SCHEDULE NOW APPEARS REALISTIC.

2. ON DISCLOSURE SECTION OF MULTINATIONAL ENTERPRISE (MNE) GUIDELINES, ALL MEMBERS BUT NORDICS NOW SEEM WILLING TO ACCEPT BREAKDOWN OF FINANCIAL DATA BY GEOGRAPHIC AREA ONLY (NOT COUNTRY-BY-COUNTRY). PRICE FOR THIS WAS USDEL (BOEKER) AGREEMENT TO DEVELOP INTERPRETATIVE NOTE THAT WOULD CLARIFY THAT GEOGRAPHIC AREA IS NOT SYNONOMOUS WITH CONTINENT. OUR STRENGTHENING OF NON-DISCRIMINATION PRINCIPLE BY APPLYING IT TO GOVERNMENT'S EXPECTATIONS OF PERFORMANCE UNDER THE GUIDELINES WAS BROADLY ACCEPTED. BRIBERY AND POLITICAL INVOLVEMENT SECTION APPROVED. CIME ALSO ENDORSED, WITH SWISS RESERVATION, THE NEW SECTION ON RESTRICTIVE BUSINESS PRACTICES (EMERGING FROM RBP COMMITTEE; SEE REFTTEL B AND REFDOK H), WHICH MEETS ALL MAJOR U.S. POINTS AND SHOULD CONSIDERABLY RELAX U.S. BUSINESS CONCERNS. WE TENTATIVELY AGREED TO A COMPROMISE ON TRANSFER OF OPERATIONS IN THE LABOR SECTION WHICH PROSCRIBES A THREAT OF TRANSFER OF OPERATIONS TO UNFAIRLY INFLUENCE BONA FIDE LABOR NEGOTIATIONS. THE ONE AREA WHERE NO PROGRESS WAS MADE WAS NORDIC INSISTENCE UPON, AND U.S. REJECTION OF, INDEPENDENT REPRESENTATION OF INDIVIDUAL COMPANIES IN OECD CONSULTATIONS ON MNE GUIDELINES.

3. ON NATIONAL TREATMENT, DISCUSSION OF PRECISE EXCEPTION STANDARD PRODUCED SUCH A MORASS OF REQUESTS FOR OPEN LICENSES TO DISCRIMINATE THAT CIME AGREED TO DROP ANY EXCEPTIONS CRITERION. IT WILL INSTEAD STICK WITH RINGING UNQUALIFIED STATEMENT OF PRINCIPLE OF NATIONAL TREATMENT PLUS NOTIFICATION AND REVIEW OF EXCEPTIONS. GUIDELINE ON INCENTIVES AND DISINCENTIVES LIKELY TO BE APPROVED WITH BROAD STATEMENT OF DON'T-LIMITED OFFICIAL USE

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BEGGAR-THY-NEIGHBOR PRINCIPLE AND PROVISION FOR CONSULTATIONS ON NARROWER CLASS OF MEASURES DESIGNED TO AFFECT INTERNATIONAL INVESTMENT FLOWS.

4. DRAFTING GROUP WILL MEET ON JANUARY 7, 8 TO TAKE UP SEVEN TASKS ASSIGNED IT BY CIME:

A. DEAL WITH LARGE NUMBER OF MINOR AMENDMENTS TO

INDUSTRIAL RELATIONS SECTION OF MNE GUIDELINES.

B) DISPOSE OF ONE REMAINING BRACKETED PHRASE IN  
RESTRICTIVE BUSINESS PRACTICES CHAPTER (TO WHICH SWISS  
OBJECT) BY COVERING THE GENERAL PRINCIPLE ELSEWHERE.

C) DRAFT INTERPRETIVE FOOTNOTE ON "GEOGRAPHIC AREA".

D) REDRAFT BRIDGING PARAGRAPH ON GOVERNMENTAL OBLIGATIONS.

E) APPROVE U.S. DRAFT ON NON-DISCRIMINATION.

F) REVIEW NEW U.S. LANGUAGE ON NATIONAL TREATMENT.

G) ADD A FEW SENTENCES TO THE INCENTIVES/DISINCENTIVES  
GUIDELINE TO CLARIFY ITS RELATION TO TRADE ISSUES.

5. HEADS OF DEL OF 6 COUNTRIES WILL MEET IN BONN  
JANUARY 27, 28 TO TRY TO SETTLE ANY REMAINING MAJOR  
DIFFERENCES PRIOR TO NEXT CIME MEETING ON JANUARY 29,  
30. ACTION REQUESTED: SUBMISSION OF U.S. LANGUAGE  
ON NATIONAL TREATMENT PER PARAGRAPH 31 BELOW. END  
SUMMARY

GUIDELINES FOR MNE'S

6. BRIBERY AND POLITICAL INVOLVEMENT. ANNEX I REFD  
D: ANTI-BRIBERY PROVISION (PARA 6) WAS ACCEPTED BY  
THE CIME. AFTER SOME DISCUSSION OVER TERM "IMPROPER"  
IN GENERAL POLICIES PARA 8 PHRASE "ABSTAIN FROM ANY  
IMPROPER INVOLVEMENT IN LOCAL POLITICAL ACTIVITIES,"

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JAPAN DROPPED ORIGINAL OBJECTIONS AND PARAS 6, 7, 8 APPROVED, ALTHOUGH ITALY AND SOME OTHER DELS STILL NOT HAPPY OVER "IMPROPER". USDEL NOTED THAT THIS WORD USEFUL IN THAT IT AIMS AT ETHICAL STANDARD BEYOND APPLICABLE LAW AND ALSO IMPLIES THAT THERE IS "PROPER" POLITICAL INVOLVEMENT, I.E., LOBBYING.

7. CONSULTATIONS. ANNEX II REFDOC D: DELEGATIONS WERE NOT AGREED ON ROLE TO BE PLAYED IN THE CONSULTATIONS BY BIAC, TUAC AND PRIVATE COMPANIES. FOR PARA 1, U.K. PROPOSED THE FOLLOWING LANGUAGE FOR SECOND SENTENCE THAT RECEIVED GENERAL ACCEPTANCE: QUOTE THE COMMITTEE WILL PERIODICALLY INVITE BIAC AND TUAC TO EXPRESS THEIR VIEWS ON GENERAL MATTERS REALTED TO THE GUIDELINES. UNQUOTE IT WAS NOTED THAT THIS LEAVES IT UP TO CIME TO DECIDE IN EACH CASE WHETHER VIEWS WOULD BE EXPRESSED IN WRITING OR BY PERSONAL APPEARANCE.

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8. ROLE OF PRIVATE ENTERPRISES IN OECD CONSULTATIONS ON GUIDELINES (BRACKETED IN PARA 2 OF ANNEX II REFDOC D) WAS NOT RESOLVED AND WAS ONLY MAJOR ISSUE ON WHICH CIME MADE NO PROGRESS. SWEDEN AND FEW OTHERS WISHED ENTERPRISES TO BE PERMITTED TO EXPRESS THEIR VIEWS TO THE CIME. USDEL NOTED THAT SINCE ANY REFERENCES TO BEHAVIOR OF ENTERPRISES IN THE CONSULTATIONS WOULD ONLY BE ILLUSTRATIVE, THERE WAS NO NEED FOR ENTERPRISES THEMSELVES TO APPEAR BEFORE CIME TO RESPOND TO CHARGES, I.E., AS NO CHARGES WOULD BE BROUGHT AND NO JUDGMENTS REACHED. TO EXTENT INDIVIDUAL FIRMS' VIEWS SOUGHT, GOVERNMENTS COULD PASS THEM ON. IN EFFORT TO BREAK IMPASSE, USDEL PROPOSED MODIFYING FIRST SENTENCE IN PARA 2 TO READ AS FOLLOWS. QUOTE WITHIN THESE REVIEWS, QUESTIONS OF INTERPRETATION MAY BE RAISED BY MEMBER COUNTRIES AS WELL AS SPECIFIC ISSUES RELATED TO THE GUIDELINES AS ILLUSTRATED, WHERE APPROPRIATE, BY EXAMPLES AND EXPLANATIONS OF ENTERPRISE

BEHAVIOR. UNQUOTE THIS DID NOT CARRY. U.K. SOUGHT  
FORMULA PERMITTING ENTERPRISE VIEWS TO BE PRESENTED IN  
WRITING.

9. SOME DISCUSSION ALSO HELD ON PARA 4 OF ANNEX II  
REFDOC D. JAPAN ESPECIALLY WONDERED WHETHER REFERENCE TO  
"CONFLICTING REQUIREMENTS" WAS LIMITED TO CONFLICTING  
"LEGAL" REQUIREMENTS. SECRETARIAT (VOGELAAR) STATED  
THAT TI WAS BROADER, APPLYING TO LAWS AND POLICIES AS  
WELL. JAPAN RESERVED.

10. DISCUSSION ENDED WITH CIME CHAIRMAN (STEEG)  
SUMMARIZING THE DIFFERING VIEWS ON ROLE OF ENTERPRISES  
IN CONSULTATIONS. NO MENTION WAS MADE OF GIVING THIS  
ITEM OVER TO THE DRAFTING GROUP.

11. EMPLOYMENT AND INDUSTRIAL RELATIONS. ANNEX III,  
REFDOC D: AS IN THE PREVIOUS CIME MEETING, IT WAS  
AGREED (WITH NETHERLANDS AND A FEW OTHERS RESERVING)  
THAT THIS SECTION IS ADDRESSED TO THAT PART OF THE MNE  
WHEREIN THE POWER OF DECISION IS LOCATED REGARDING  
THESE MATTERS. THEREFORE, REFERENCE IN THE "CHAPEAU"  
SECTION TO ENTERPRISES ASSISTING THEIR COMPONENT  
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ENTITIES IS TO BE DROPPED.

12. AS VIRTUALLY ALL COMMENTS ON PARAS 1 THROUGH 6 OF  
ANNEX III REFDOC D WERE DRAFTING POINTS, THE CHAIRMAN  
REFERRED THEM TO THE DRAFTING GROUP. ON PARAS 7 AND 8,  
HOWEVER, THERE WAS CONSIDERABLE SUBSTANTIVE CONTENTION.

13. THE NORDIC COUNTRIES, NETHERLANDS, CANADA AND  
TO SOME EXTENT THE U.K. WUPPORTED PARA 7 ADMONISHING  
MNE'S NOT TO TRANSFER OPERATIONS FROM A HOST COUNTRY  
DURING A LABOR DISPUTE. IN FACE USDEL REITERATION THAT  
THIS WAS COMPLETELY UNACCEPTABLE, CHAIRMAN  
APPOINTED A DRAFTING PARTY WHICH PREPARED NEW TEXT TO BE  
REFERRED BACK TO HOME GOVERNMENTS AND ASKED CIME MEMBERS  
TO MAKE EVERY EFFORT ACCEPT THE TEXT WHICH READS AS  
FOLLOWS: QUOTE ENTERPRISES SHOULD:

(7. IN THE CONTEXT OF BONA FIDE NEGOTIATIONS WITH  
REPRESENTATIVES OF EMPLOYEES ON CONDITIONS OF EMPLOYMENT  
OR WHILE EMPLOYEES ARE EXERCISING A RIGHT TO ORGANIZE  
NOT THREATEN TO UTILIZE A CAPACITY TO TRANSFER AN  
OPERATING UNIT FROM THE COUNTRY CONCERNED IN ORDER  
UNFAIRLY TO INFLUENCE THOSE NEGOTIATIONS OR TO HINDER  
THE EXERCISE OF A RIGHT TO ORGANIZE;) UNQUOTE

14. ALBEIT CONENTIOUS, CIME APPEARED TO REACH VIEW THAT COPARTICIPATION IN MANAGEMENT DECISIONS SHOULD NOT BE THE INTENT OF PARA 8 ANNEX III. ACCORDINGLY, THE CHAIRMAN REFERRED PARA 8 TO THE DRAFTING GROUP TO MAKE IT CLEAR THAT THE INTENTION IS TO URGE MNES TO MAKE AVAILABLE FOR COLLECTIVE BARGAINING SITUATIONS MANAGERS EMPOWERED TO MAKE DECISIONS IN NEGOTIATIONS ON LABOR DISPUTES.

15. INTRODUCTION SECTION OF MEN GUIDELINES. REFDOK C: CIME ACCEPTED U.K. AND U.S. AMENDMENTS TO PARA 10 WHEREBY INSTEAD OF REFERRING TO PROBLEMS ARISING FROM THE ACTIVITIES OF MULTINATIONAL ENTERPRISES THIS PARAGRAPH WOULD REFER TO PROBLEMS RELATING TO MULTINATIONAL ENTERPRISES.

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16. GIVEN THE DISCUSSIONS CONCERNING INFORMATION DISCLOSURE (SEE PARAS 18-20 BELOW USDEL PROPOSED NEW LANGUAGE FOR PARA 9 OF INTRODUCTION (REFDOC C) IN ORDER TO ESTABLISH THAT THE RECOMMENDATIONS IN THE ENTIRE MNE GUIDELINE REFER WHERE RELEVANT TO DOMESTIC

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ENTERPRISES AS MUCH AS TO MNES. WE WERE STRONGLY SUPPORTED IN THIS BY CANADA AND THE U.K. AND NOT OPPOSED BY ANY OTHER MEMBER. CHAIRMAN SAID THAT U.S. DRAFT WAS ACCEPTED IN PRINCIPLE AND DRAFTING GROUP SHOULD REVIEW LANGUAGE. TEXT OF U.S. PROPOSAL FOLLOWS:

QUOTE THE GUIDELINES ARE NOT AIMED AT INTRODUCING DIFFERENCES OF TREATMENT BETWEEN MULTINATIONAL AND DOMESTIC ENTERPRISES; WHEREVER RELEVANT THEY REFLECT GOOD PRACTICE FOR ALL ENTERPRISES. ACCORDINGLY, GOVERNMENTS SHOULD ENTERTAIN THE SAME EXPECTATIONS OF MULTINATIONAL AND DOMESTIC ENTERPRISES WHEREVER THE GUIDELINES ARE RELEVANT TO BOTH. UNQUOTE

17. BRIDGING PARAGRAPH ON GOVERNMENTAL OBLIGATIONS (PAGE 4 REFD0C C): IN THE "HAVING REGARD" PARAGRAPH ON GOVERNMENTAL OBLIGATIONS, THE CANADIANS OFFERED TO REMOVE BRACKETS ON EQUITABLE TREATMENT, IF UNDERTAKING LIMITED OFFICIAL USE

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OF GOVERNMENTS WERE STATED AS "WILL EXERCISE THEIR RESPONSIBILITY TO TREAT ENTERPRISES EQUITABLY". U.S. (AND OTHERS) AGREED, AS LONG AS STRONGER LANGUAGE WOULD BE USED WITH REGARD TO INTERNATIONAL LAW: THAT IS, EITHER TO "DISCHARGE THEIR DUTY (OR MEET THEIR OBLIGATION) TO TREAT ENTERPRISES IN ACCORDANCE WITH INTERNATIONAL LAW AND INTERNATIONAL AGREEMENTS TO WHICH THEY (GOVERNMENTS) HAVE SUBSCRIBED." CANADIANS SAID THEY COULD ACCEPT LATTER ALTERNATIVE. U.S. PROPOSED ADDING ANOTHER OBLIGATION: TO RESPECT OTHER AGREEMENTS (I.E. WITH PRIVATE PARTIES). GERMANS, U.K. AND OTHERS ACCEPTED THIS, BUT SWEDES WERE PAINED AND FURTHER DISCUSSION WAS LEFT TO DRAFTING GROUP.

18. DISCLOSURE OF INFORMATION SECTION OF MNE GUIDELINES, REFD0C C: DISCUSSION WENT DIRECTLY INTO ALTERNATIVE B. USDEL STATED STRONG OBJECTIONS, ON ITS MERITS, TO COUNTRY-BY-COUNTRY BREAKDOWN OF INFORMATION. NOTING THAT DIFFERING ACCOUNTING METHODS LEAD TO DISCRIMINATORY RESULTS AND THE PRODUCTION OF A MASS OF

MEANINGLESS DATA, USDEL STATED THAT WHILE SUCH DISCLOSURE IS A NOBLE IDEAL, IN THE CONTEXT OF VOLUNTARY GUIDELINES AND EXISTING ACCOUNTING DIFFERENCES IT IS NOT POSSIBLE OR APPROPRIATE. A MORE USEFUL APPROACH WOULD BE A CONCERTED EFFORT TO CALL TOGETHER EXPERTS TO WORK OUT SOME UNIFORM ACCOUNTING STANDARDS, EVEN THOUGH SUCH ENDEAVOR MIGHT WELL TAKE TWO YEARS OR MORE. GIVEN THESE REALITIES AND PENDING POSSIBLE HARMONIZATION OF ACCOUNTING STANDARDS ANY REFERENCE TO COUNTRY-BY-COUNTRY BREAKDOWN WOULD BE UNACCEPTABLE. HOWEVER, USDEL COULD ENVISION A DIVISION BY MAIN GEOGRAPHICAL AREA OR GROUPS OF COUNTRIES AS A POSSIBLY ACCEPTABLE ALTERNATIVE TO MEET NEED TO INFORM PUBLIC OF MNE ACTIVITIES. IN RESPONSE TO LINE OF ATTACK THAT GEOGRAPHIC AREA BREAKDOWN COULD BE INTERPRETED AS NO MORE OF A BREAKDOWN THAN CONTINENTS, USDEL INDICATED THAT IT COULD BE INTERPRETED AS GROUPS OF COUNTRIES, FLEXIBLE ENOUGH SO THAT VAST PREPONDERANCE OF OVERSEAS SALES WOULD NOT BE CONSOLIDATED AND HIDDEN IN ONE GEOGRAPHIC AREA WHERE MNE HAD NUMEROUS, SIGNIFICANT OPERATIONS. U.K. AND FRG INDICATED THAT THEY MIGHT LIMITED OFFICIAL USE

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BE ABLE TO ACCEPT "GEOGRAPHIC AREA" BREAKDOWN BUT ONLY IF INTERPRETATION CLARIFIED IN SENSE EXPLAINED BY USDEL. U.S. PROPOSED, WITH SOME SUPPORT AND NO OBJECTION, DEFINING LINES OF BUSINESS AS "MAIN LINES OF BUSINESS", AND DELETING REFERENCE TO MAIN CAPITAL TRANSACTIONS IN ITEM ON SOURCES AND USES OF FUNDS.

20. ALTERNATIVE B WAS SUPPORTED BY OR ACCEPTABLE TO SWEDEN, NETHERLANDS, FRG AS IT STANDS IN REFDOC C. HOWEVER, SWEDEN PROPOSED BROADENING ALTERNATIVE B BY ADDING SUCH CONCEPTS AS IDENTIFICATION OF MAIN SHAREHOLDERS, SIGNIFICANT CAPITAL INVESTMENT DIVIDED INTO GROUPS OF PRODUCTS OR SERVICES, RESULTS AFTER DEPRECIATING, ETC. CHAIRMAN ASKED SECRETARIAT TO TRY NEW DRAFT OF DISCLOSURE SECTION MELDING U.S., FRG, U.K. AND SWEDISH COMMENTS IN A MANNER DESIGNED TO HIT ACCEPTABLE MIDDLE GROUND (I.E. ALONG LINES OF DISCUSSION DESCRIBED IN PARA 18 ABOVE).

OFFICIAL INCENTIVES AND DISINCENTIVES

21. AFTER SOME INITIAL HESITATION, CIME MADE SUBSTANTIAL PROGRESS ON REFDOC E AND IT APPEARS LIKELY THAT THE FOLLOWING WILL BE ACCEPTED WITH SOME MINOR CHANGES FOR CLARITY: (A) BROAD DECLARATION OF THE PRINCIPLE THAT OECD MEMBERS WILL TAKE INTO ACCOUNT AND REDUCE TO A MINIMUM THE HARMFUL EFFECTS OFFICIAL



INCENTIVES OR DISINCENTIVES TO DIRECT INVESTMENT  
(IN GENERAL) MAY HAVE ON OTHER MEMBERS; (B) DECISION  
TO CONSULT ON MEASURES WHICH ARE SPECIFICALLY DESIGNED  
TO ATTRACT OR REPEL FOREIGN INVESTMENT; AND (C)  
DECISION TO REVIEW THIS INSTRUMENT IN THREE YEARS  
TIME WITH A VIEW TOWARD EXTENDING ITS SCOPE.

22. THE FRENCH OBJECTIONS DURING THE PREVIOUS CIME  
MEETING WERE SUBSTANTIALLY MODERATED AND IT APPEARS  
LIKELY NOW THAT REFDOC E WILL BE ACCEPTED WITH SOME  
MINOR CHANGES MAINLY FOR CLARITY.

23. AT THIS CIME MEETING, FRANCE, AUSTRALIA AND THE  
NORDIC COUNTRIES INITIALLY OBJECTED TO AN OECD  
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DECLARATION OF BROAD PRINCIPLE PROVIDING THAT OECD  
MEMBERS TAKE INTO ACCOUNT AND REDUCE TO A MINIMUM THE  
HARMFUL EFFECTS OFFICIAL INCENTIVES AND DISINCENTIVES  
TO INVESTMENT MIGHT HAVE ON OTHER MEMBERS. FRANCE DID

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SO ON THE GROUNDS THAT SUCH DECLARATION WOULD COMMIT FRANCE TO APPLY A PRINCIPLE IT WAS NOT SURE IT COULD IMPLEMENT. AUSTRALIA HAD SIMILAR RESERVATION. THE USDEL POINTED OUT THAT THE PRINCIPLE IS AN INTENTION, A GOAL, BUT NOT A COMMITMENT AND WAS SUPPORTED IN THIS VIEW BY CHAIRMAN.

24. THE SWEDISH DEL--REPRESENTING THE NORDIC VIEWS GENERALLY--WAS CONCERNED THAT DOMESTIC MEASURES COULD BE BROUGHT INTO CONSULTATION "BY THE BACK DOOR" IF A BROAD PRINCIPLE WERE DECLARED AT THE OUTSET OF THE DOCUMENT. CHAIRMAN INSTRUCTED DRAFTING GROUP TO WRITE A SPECIFIC PROVISION TO PREVENT THIS IN THE CONSULTATION SECTION OF THE DOCUMENT.

25. AUSTRALIA AND NEW ZEALAND WERE CONCERNED ABOUT THE LACK OF SPECIFICS ON JUST WHICH INCENTIVES OR DISINCENTIVES SHOULD BE SUBJECT TO CONSULTATION. THE CANADIAN DEL WAS PARTICULARLY CONCERNED THAT TRADE LIMITED OFFICIAL USE

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MATTERS SHOULD NOT BE COVERED, AS HE FELT THAT BELONGS TO THE GATT. SECRETARIAT AGREED TO PROVIDE A LIST OF MEASURES WHICH WOULD BE INDICATIVE, BUT NOT DEFINITIVE, OF WHAT WOULD BE COVERED IN THE CONSULTATION PROCESS. CHAIRMAN ALSO INSTRUCTED DRAFTING GROUP TO TIGHTEN THE LANGUAGE IN THE DOCUMENT SO AS TO EXCLUDE TRADE ASPECTS WHICH WOULD BE COVERED IN OTHER INTERNATIONAL FORUMS.

NATIONAL TREATMENT

26. SWISS BEGAN DISCUSSION WITH PARA 8 OF REFDOK F STATING THAT ONLY THOSE TERRITORIAL SUBDIVISION RESTRICTIONS TO NATIONAL TREATMENT WHICH WERE NOTIFIED "OFFICIALLY" TO CENTRAL GOVERNMENTS SHOULD BE NOTIFIED TO OECD. KNOWLEDGE GAINED THROUGH NEWSPAPER, ETC. NEED NOT BE SO NOTIFIED. GENERAL SENTIMENT SEEMED TO BE AGAINST THIS CONCEPT, BUT SWISS STUCK TO GUNS.

27. QUESTION OF SPECIAL EEC PARAGRAPH REMAINED UNRESOLVED. COMMUNITY DELEGATE STATED HIS LEGAL SERVICES FEEL SUCH EXCEPTION NEEDED AND HE WOULD PRESENT SPECIFIC LANGUAGE FOR NEXT DRAFTING GROUP MEETING. NORWAY THOUGHT CERTAIN PROVISIONS IN EFTA

CHARTER ALSO REQUIRED SPECIAL EXCEPTIONS LANGUAGE.

28. MAIN DISCUSSION FOCUSED ON PARAS 9 AND 10 OF DRAFT NATIONAL TREATMENT TEXT. DUTCH, SUPPORTED BY OTHERS, FELT THAT PARA 9 WAS STATED TOO STRONGLY AND SEEMED TO IMPLY THAT EXISTING RESTRICTIONS ON NATIONAL TREATMENT WERE IMMUTABLE. IT WAS AGREED THAT NEW LANGUAGE WOULD BE PRODUCED.

29. ON SPECIAL EXCEPTIONS (PARAGRAPH 10), U.S. PROPOSAL CAREFULLY EXPLAINED BY USDEL, WAS ACCEPTED BY DUTCH AND STRONGLY SUPPORTED BY GERMANS. HOWEVER, SWEDEN, JAPAN AND U.K. AMONG OTHERS HAD STRONG RESERVATIONS. U.K. AND JAPAN FELT EVOLUTIONARY INSTRUMENT, STARTING MODESTLY, WAS MOST APPROPRIATE. SWEDES WENT SO FAR AS TO STATE THAT NATIONAL TREATMENT PRINCIPLE SHOULD NOT COVER MEASURES TAKEN TO ENSURE THAT FOREIGN COMPANIES OBEY A COUNTRY'S LAWS, REGULATIONS AND LIMITED OFFICIAL USE

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ADMINISTRATIVE PRACTICES. SWEDES, WITH SOME OTHERS, ALSO WISHED TO MAINTAIN REFERENCE TO "SOCIAL INTERESTS", WHICH WOULD INCLUDE LABOR RELATIONS ISSUES.

30. SWEDES AND U.K. THOUGHT THAT THE "RISK" OF SERIOUS INJURY SHOULD ALSO BE GROUNDS FOR EXCEPTIONS, AS COUNTRY SHOULD NOT HAVE TO WAIT UNTIL IT ACTUALLY SUFFERED SERIOUS INJURY. FRENCH DELEGATE STATED THAT WHILE HE COULD PROBABLY GO ALONG WITH WHATEVER DOCUMENT WAS FINALLY DEVELOPED, IT WOULD BE EASIER TO HAVE NO GROUNDS FOR EXCEPTIONS LISTED IN DOCUMENT. THIS IDEA GATHERED SUPPORT AND USDEL STATED THAT THERE WERE TWO OPTIONS AVAILABLE: (A) CONTINUE TRYING TO WORK OUT A NARROW EXCEPTIONS PROCEDURE WITH ITS ATTENDANT COMPLICATIONS AND PROBLEMS OR (B) TRY FOR A MUCH MORE GENERAL STATEMENT OF A BROAD PRINCIPLE OF NATIONAL TREATMENT, RECOGNIZING THROUGH A CONSULTATION PROCEDURE THE FACT THAT EXCEPTIONS WOULD BE MADE, BUT NOT ACTUALLY SPELLING OUT GROUNDS UPON WHICH EXCEPTIONS COULD BE BASED. THE ONLY UNACCEPTABLE POSITION TO U.S. WOULD BE TO HAVE A DOCUMENT WITH A SOFT EXCEPTIONS PROCEDURE, AS THIS WOULD BE RETROGRESSIVE.

31. THERE WAS GENERAL ENTHUSIASM FOR IDEA OF TRYING OUT OPTION (B) TO SEE WHAT SUCH A DOCUMENT WOULD LOOK LIKE. CHAIRMAN ASKED U.S. TO PREPARE A DRAFT IN TIME FOR JANUARY 7-8 MEETING OF DRAFTING GROUP.

INDUSTRY COMMITTEE'S RECOMMENDATIONS FOR IMPROVED STATISTICAL DATA ON MNE'S

32. WHILE CIME MEMBER COUNTRIES GENERALLY WILLING TO  
SUBMIT INDUSTRY COMMITTEE REPORT (REFDOC G) TO COUNCIL,  
MOST VOICED RESERVATIONS AS TO THEIR ABILITY TO PROVIDE  
DATA ON 14 ITEMS OF PROPOSED FRAMEWORK FOR NATIONAL  
STATISTICS ON MNE'S. GERMANY NOTED IT COULD NOT COVER  
ALL 14 ITEMS, AND INDICATED IT LACKED LEGAL AUTHORITY  
TO DO SO. IT ALSO REGARDED REPORT AS ONLY SUGGESTED  
FORMAT AND NOT AS OBLIGATION TO ESTABLISH PROPOSED  
STATISTICAL SYSTEM WITHIN CERTAIN TIME FRAME.  
GERMAN DEL ALSO WANTED TO AMEND RECOMMENDATION FOR  
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COUNCIL ACTION ) (PAGE 7, REFOC G, PART II) TO  
INSERT QUOTE AS FAR AS POSSIBLE UNQUOTE BETWEEN THE  
WORDS "ACCOUNT" AND "THE INDUSTRY COMMITTEE".

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65  
ACTION EUR-12

INFO OCT-01 ISO-00 IO-10 AID-05 CEA-01 CIAE-00 COME-00

EB-07 EA-07 FRB-03 INR-07 NEA-10 NSAE-00 OPIC-03

SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 OMB-01 JUSE-00

TAR-01 FTC-01 STR-04 DODE-00 PM-04 H-02 L-03 NSC-05

PA-01 PRS-01 SS-15 USIA-06 OIC-02 XMB-02 AGR-05 /127 W

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33. U.S. DELEGATE WAS ALSO WILLING TO ACCEPT REPORT AS SUGGESTED FORMAT FOR COLLECTING STATISTICS. HE INDICATED THAT U.S. LACKS LEGAL AUTHORITY TO COLLECT ALL OF THE DATA CALLED FOR BY THE 14 POINT RECOMMENDATION. U.S. MENTIONED PRESENT ONE-TIME INWARD DIRECT INVESTMENT STUDY AUTHORIZED BY CONGRESS AND OFFERED TO MAKE STUDY NOW UNDERWAY AVAILABLE TO OECD UPON COMPLETION. ALSO POINTED OUT THAT CURRENT ADMINISTRATION POLICY IS TO SEEK TO LIMIT BURDENING INCOMING INVESTMENT WITH REPORTING REQUIREMENTS.

34. DENMARK AND FINLAND ALSO INDICATED INABILITY TO PROVIDE DATA ON ALL 14 ITEMS. CANADA RESERVED ON THE INDUSTRY COMMITTEE'S REPORT NOW, BUT PROMISED TO HAVE POSITION IN TIME FOR OECD COUNCIL ACTION.

35. U.K. AGREED WITH GERMAN POINT THAT REPORT IS A FORMAT AND NOT OBLIGATION, BUT QUESTIONED WHETHER WEAKENING RECOMMENDATION WAS NECESSARY AS GERMANS HAVE LIMITED OFFICIAL USE

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PROPOSED, SINCE REPORT WAS NON-BINDING RECOMMENDATION IN ANY CASE. SWITZERLAND NOTED CONSTITUTIONAL PROBLEM IN PROVIDING DATA AND DID NOT KNOW WHEN IT COULD DO SO. NETHERLANDS SUPPORTED U.K. POINT AND CAUTIONED ON AN OVERLY NEGATIVE CIME RESPONSE TO REPORT. CHAIRMAN STEEG ALSO STRESSED SAME POINT, NOTING THAT INDUSTRY COMMITTEE WORKED LONG TIME ON ITS REPORT AND URGED ACCEPTANCE. SHE NOTED REPORT IS A RECOMMENDATION NOT A MORAL OBLIGATION. SECRETARIAT (HILL) COMMENTED THAT COUNTRIES SHOULD REGARD REPORT AS FRAMEWORK FOR LONG-TERM PROJECT. FRENCH DELEGATE ENDORSED VALUE OF ACQUIRING MAXIMUM AMOUNT OF DATA IN ORDER TO IMPROVE UNDERSTANDING OF MNE'S. GERMANY EXPRESSED WILLINGNESS TO WITHDRAW ITS AMENDMENT ON BASIS THAT REPORT IS A RECOMMENDATION NOT MORAL OBLIGATION AND THAT OECD WOULD NOT PRESSURE COUNTRIES TO PROVIDE DATA WITHIN CERTAIN TIME LIMIT. IN SUMMING UP, CHAIRMAN STEEG STATED THAT REPORT WOULD BE FORWARDED TO COUNCIL ALONG WITH COUNTRY REACTIONS AND LEAVE UP TO COUNCIL FINAL DECISION AS TO HOW TO WORD RECOMMENDATION.

36. CHAIRMAN STEEG THEN INTRODUCED NEXT POINT WHICH CONCERNED QUESTION AS TO WHETHER INDUSTRY COMMITTEE SHOULD BE ASKED TO WORK ON QUESTION OF ACQUIRING MORE DATA ON OUTWARD INVESTMENT BY MNE'S. SHORT DISCUSSION FOLLOWED AND IT WAS AGREED NOT TO PURSUE THIS PROPOSAL NOW IN VIEW OF THE FACT THAT THE PROBLEM

OF DISCLOSURE IN MNE GUIDELINES HAS NOT BEEN SETTLED.  
KATZ

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** STANDARDS, INVESTMENT CLIMATE, COMMITTEE MEETINGS, MULTINATIONAL CORPORATIONS, INVESTMENT PROGRAMS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 23 DEC 1975  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** MorefiRH  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Reference:** 76 OECD PARIS 30695, 76 OECD PARIS 33325  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** MorefiRH  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 27 MAY 2003  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <27 MAY 2003 by WorrelSW>; APPROVED <07 AUG 2003 by MorefiRH>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
06 JUL 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** OECD COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES (CIME), DECEMBER 18-19 MEETING  
**TAGS:** EINV, EFIN, OECD, CIME  
**To:** STATE  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006